



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35605]

RailAmerica, Inc., Palm Beach Rail Holding, Inc., RailAmerica Transportation Corp., RailTex, Inc., Fortress Investment Group, LLC, and RR Acquisition Holding, LLC—Control Exemption—Wellsboro & Corning Railroad, LLC

RailAmerica, Inc. (RailAmerica), Palm Beach Rail Holding, Inc. (Palm Beach), RailAmerica Transportation Corp. (RTC), RailTex, Inc. (RailTex), Fortress Investment Group, LLC (Fortress), and RR Acquisition Holding, LLC (RR Acquisition) (collectively, RailAmerica et al.), have filed a verified notice of exemption to acquire indirect control of the Wellsboro & Corning Railroad, LLC (W&C), a Class III rail carrier, through the acquisition of control of TransRail Holdings, LLC (TransRail), the parent of W&C, by RailTex.

The proposed transaction is scheduled to be consummated on or after April 7, 2012 (30 days after the notice of exemption was filed).

W&C acquired the assets of the Wellsboro & Corning Railroad Co.¹ W&C owns and operates 35.5 miles of track between Wellsboro, Pa., milepost 109.90, and Erwin, N.Y., milepost 74.70, in Tioga County, Pa., and Steuben County, N.Y. W&C interchanges traffic with the Norfolk Southern Railway Company and the Canadian Pacific Railway Company.

¹ Wellsboro & Corning R.R.—Acquis. & Operation Exemption—Wellsboro & Corning R.R., FD 35595 (STB served Feb. 22, 2012).

According to the verified notice of exemption, RailTex entered a Unit Purchase Agreement dated January 31, 2012 (the Agreement), with (1) TransRail, (2) Industrial Waste Group, LLC (IWG), (3) Wellsboro & Corning Railroad Co., and (4) A. Thomas Myles III, A. Thomas Myles IV, and William Myles (the MG Principals). The MG Principals own TransRail, and TransRail owns W&C and the successor to IWG. Under the Agreement, RailTex will acquire 100% of the Class A Common Units of TransRail, giving RailTex a 70% ownership interest in TransRail and control of W&C through TransRail. The MG Principals will retain the Class B Common Units of TransRail, thereby retaining a 30% interest in TransRail, though they will not retain control or the power to control W&C.

Fortress' noncarrier affiliate, RR Acquisition, currently owns about 60% of the publicly traded shares and controls the noncarrier RailAmerica, which directly controls the noncarrier Palm Beach, which directly controls the noncarrier RTC.

RailAmerica states that it controls the following Class III rail carriers:

(1) Alabama & Gulf Coast Railway LLC; (2) Arizona & California Railroad Company; (3) Bauxite & Northern Railway Company; (4) California Northern Railroad Company; (5) Cascade and Columbia River Railroad Company; (6) Central Oregon & Pacific Railroad, Inc.; (7) The Central Railroad Company of Indiana; (8) Central Railroad Company of Indianapolis; (9) Connecticut Southern Railroad, Inc.; (10) Conecuh Valley Railway, LLC; (11) Dallas, Garland & Northeastern Railroad, Inc.; (12) Delphos Terminal Railroad Company, Inc.; (13) Eastern Alabama Railway, LLC; (14) Huron & Eastern Railway Company, Inc.; (15) Indiana & Ohio Railway Company; (16) Indiana Southern Railroad, LLC; (17) Kiamichi Railroad Company, LLC; (18) Kyle Railroad

Company; (19) The Massena Terminal Railroad Company; (20) Mid-Michigan Railroad, Inc.; (21) Missouri & Northern Arkansas Railroad Company, Inc.; (22) New England Central Railroad, Inc.; (23) North Carolina & Virginia Railroad Company, LLC; (24) Otter Tail Valley Railroad Company, Inc.; (25) Point Comfort & Northern Railway Company; (26) Puget Sound & Pacific Railroad; (27) Rockdale, Sandow & Southern Railroad Company; (28) San Diego & Imperial Valley Railroad Company, Inc.; (29) San Joaquin Valley Railroad Company; (30) South Carolina Central Railroad Company, LLC; (31) Three Notch Railway, LLC; (32) Toledo, Peoria & Western Railway Corporation; (33) Ventura County Railroad Corp.; and (34) Wiregrass Central Railway, LLC.²

Further, Fortress, on behalf of other equity funds managed by it and its affiliates, directly controls the noncarrier FECR Rail LLC, which directly controls FEC Rail Corp., which directly controls Florida East Coast Railway, LLC, a Class II rail carrier.

RailAmerica et al. state that: (1) W&C does not connect with any of RailAmerica's subsidiary railroads; (2) the proposed transaction is not part of a series of anticipated transactions to connect W&C and any of RailAmerica's subsidiary railroads; and (3) the proposed transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11323 pursuant to 49 CFR 1180.2(d)(2).

² On February 3, 2012, in Docket No. FD 35592, RailAmerica et al. filed a petition for exemption from the prior approval requirements of 49 U.S.C. §§ 11323-25 to acquire control of Marquette Rail, LLC, a Class III rail carrier. The Board issued a notice on February 28, 2012, instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because the transaction involves the control of one or more Class III rail carriers and one Class II rail carrier, the transaction is subject to the labor protective requirements of 49 U.S.C. § 11326(b) and Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad, 2 S.T.B. 218 (1997).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed by March 30, 2012 (at least seven days before the exemption becomes effective).

An original and ten copies of all pleadings, referring to Docket No. FD 35605 must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: March 20, 2012

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White

Clearance Clerk

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